

Transfer from District of NJ → 10/25/16
MSG
UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate judges.

Address of Plaintiff: Malvern, PA + Phoenixville, PA

Address of Defendant: 15 Mountainview Road, Warren, PA 07059

Place of Accident, Incident or Transaction: _____
 (Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
 (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☐

RELATED CASE, IF ANY: _____

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
 Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
 Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
 (Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☒ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify) _____
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
 (Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

 Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 10/25/16

Steve Thomas
 Attorney-at-Law

Deputy Clerk
 Attorney I.D.# _____

OCT 25 2016

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THE UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

~~Plaintiff~~: *Tele Bio, Inc.; et al.*
v.
Federal Insurance Company,

CIVIL ACTION

NO. **16** **5585**

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10/25/16
Date

Steve Tomas
Attorney at law

Deputy Clerk
Attorney for

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

OCT 25 2016

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

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CLOSED

**U.S. District Court
District of New Jersey [LIVE] (Trenton)
CIVIL DOCKET FOR CASE #: 3:16-cv-00866-FLW-DEA**

TELA BIO, INC. et al v. FEDERAL INSURANCE
COMPANY
Assigned to: Judge Freda L. Wolfson
Referred to: Magistrate Judge Douglas E. Arpert
Cause: 28:1332 Diversity-Injunctive & Declaratory Relief

Date Filed: 02/17/2016
Date Terminated: 10/25/2016
Jury Demand: Plaintiff
Nature of Suit: 110 Insurance
Jurisdiction: Diversity

Plaintiff

TELA BIO, INC.
a Delaware corporation

represented by **EUGENE KILLIAN, JR.**
THE KILLIAN FIRM, P.C.
555 ROUTE 1 SOUTH
SUITE 430
ISELIN, NJ 08830
(732) 912-2100
Email: ekillian@tkfpc.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

ANTONY KOBLISH

represented by **EUGENE KILLIAN, JR.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

MAARTEN PERSENAIRE
an Individual

represented by **EUGENE KILLIAN, JR.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**FEDERAL INSURANCE
COMPANY**
an Indiana corporation

represented by **KATHERINE E. TAMMARO**
WILSON ELSEER MOSKOWITZ
EDELMAN & DICKER LLP
200 CAMPUS DRIVE
FLORHAM PARK, NJ 07932
973-624-0800
Fax: 973-624-0808
Email:
Katherine.Tammaro@wilsonelser.com
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

KEVIN P. SULLIVAN
TRESSLER LLP
 744 BROAD STREET
 SUITE 1510
 NEWARK, NJ 07102
 973- 623-2700
 Fax: (973) 623-0405
 Email: kevin.sullivan@tresslerllp.com
TERMINATED: 09/13/2016
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/17/2016	<u>1</u>	COMPLAINT against FEDERAL INSURANCE COMPANY (Filing and Admin fee \$ 400 receipt number 6923728) with JURY DEMAND, filed by TELA BIO, INC., ANTHONY KOBLISH, MAARTEN PERSENAIRE. (Attachments: # <u>1</u> Exhibit 1 (Part 1), # <u>2</u> Exhibit 1 (Part 2), # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3-5)(mps) (Entered: 02/18/2016)
02/18/2016	<u>2</u>	SUMMONS ISSUED as to FEDERAL INSURANCE COMPANY Attached is the official court Summons, please fill out Defendant and Plaintiffs attorney information and serve. Issued By *PATRICK SEILER* (mps) (Entered: 02/18/2016)
02/25/2016	<u>3</u>	AFFIDAVIT of Service for Summons and Complaint served on Grace Lippincott, Risk Management on 02/22/2016, filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC.. (KILLIAN, EUGENE) (Entered: 02/25/2016)
03/10/2016	<u>4</u>	Application and Proposed Order for Clerk's Order to extend time to answer as to Federal Insurance Company. Attorney KEVIN P. SULLIVAN for FEDERAL INSURANCE COMPANY added. (SULLIVAN, KEVIN) (Entered: 03/10/2016)
03/10/2016		Clerk's Text Order - The document <u>4</u> Application for Clerk's Order to Ext Answer/Proposed Order submitted by FEDERAL INSURANCE COMPANY has been GRANTED. The answer due date has been set for 3/28/2016. (mmh) (Entered: 03/10/2016)
03/16/2016	<u>5</u>	MOTION for Partial Summary Judgment by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC.. (Attachments: # <u>1</u> Statement of Undisputed Material Facts, # <u>2</u> Brief in Support of Motion for Partial Summary Judgment on the Duty to Defend, # <u>3</u> Declaration of Eugene Killian with Exhibit A, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Declaration of Francis Conway with Part 1 of Exhibit 1, # <u>7</u> Exhibit Part 2 of Exhibit 1, # <u>8</u> Exhibit 2, # <u>9</u> Text of Proposed Order)(KILLIAN, EUGENE) (Entered: 03/16/2016)
03/17/2016		Set Deadlines as to <u>5</u> MOTION for Partial Summary Judgment . Motion set for

		4/18/2016 before Judge Freda L. Wolfson. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (mmh) (Entered: 03/17/2016)
03/21/2016	<u>6</u>	Rule 7.1(d)(5) Letter for an automatic extension of the return date of a dispositive motion re <u>5</u> MOTION for Partial Summary Judgment . (SULLIVAN, KEVIN) (Entered: 03/21/2016)
03/21/2016		Reset Deadlines as to <u>5</u> MOTION for Partial Summary Judgment . Motion reset for 5/2/2016 before Judge Freda L. Wolfson. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (mmh) (Entered: 03/21/2016)
03/24/2016	<u>7</u>	MOTION for Leave to Appear Pro Hac Vice by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC.. (Attachments: # <u>1</u> Declaration of Eugene Killian,Jr. in Support of the Motion for Pro Hac Vice Admission of David A. Gauntlett, # <u>2</u> Declaration of David A. Gauntlett in Support of Motion, # <u>3</u> Text of Proposed Order)(KILLIAN, EUGENE) (Entered: 03/24/2016)
03/28/2016		Set Deadlines as to <u>7</u> MOTION for Leave to Appear Pro Hac Vice. Motion set for 4/18/2016 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (mmh) (Entered: 03/28/2016)
03/28/2016	<u>8</u>	First MOTION to Dismiss <i>and/or Transfer</i> by FEDERAL INSURANCE COMPANY. (Attachments: # <u>1</u> Brief, # <u>2</u> Certification of Counsel, # <u>3</u> Exh A, # <u>4</u> Cont. of Exh A, # <u>5</u> Cont. of Exh A, # <u>6</u> Cont. of Exh A, # <u>7</u> Cont. of Exh A, # <u>8</u> Order, # <u>9</u> Certificate of Service)(SULLIVAN, KEVIN) (Entered: 03/28/2016)
03/28/2016	<u>9</u>	Corporate Disclosure Statement by FEDERAL INSURANCE COMPANY. (Attachments: # <u>1</u> Certificate of Service)(SULLIVAN, KEVIN) (Entered: 03/28/2016)
03/29/2016		Set Deadlines as to <u>8</u> First MOTION to Dismiss <i>and/or Transfer</i> . Motion set for 5/2/2016 before Judge Freda L. Wolfson. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (mmh) (Entered: 03/29/2016)
03/29/2016	<u>10</u>	NOTICE of Appearance by KATHERINE E. TAMMARO on behalf of FEDERAL INSURANCE COMPANY (TAMMARO, KATHERINE) (Entered: 03/29/2016)
04/07/2016	<u>11</u>	ORDER granting <u>7</u> Motion for Leave to Appear Pro Hac Vice as to David A.

		Gauntlett, Esq. Signed by Magistrate Judge Douglas E. Arpert on 4/7/2016. (mmh) (Entered: 04/07/2016)
04/18/2016	<u>12</u>	BRIEF in Opposition filed by FEDERAL INSURANCE COMPANY re <u>5</u> MOTION for Partial Summary Judgment (Attachments: # <u>1</u> Certification of Counsel, # <u>2</u> Exhibit A, # <u>3</u> Exhibit A-1, # <u>4</u> Exhibit A-2, # <u>5</u> Exhibit A-3, # <u>6</u> Exhibit A-4, # <u>7</u> Exhibit A-5, # <u>8</u> Responsive & Counter-Statement of Material Facts, # <u>9</u> Certificate of Service)(TAMMARO, KATHERINE) (Entered: 04/18/2016)
04/18/2016	<u>13</u>	BRIEF in Opposition filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC. re <u>8</u> First MOTION to Dismiss <i>and/or Transfer</i> (Attachments: # <u>1</u> Declaration, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B) (KILLIAN, EUGENE) (Entered: 04/18/2016)
04/18/2016	<u>14</u>	MOTION to Seal <i>Materials</i> by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC.. (Attachments: # <u>1</u> Brief, # <u>2</u> Declaration, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Text of Proposed Order)(KILLIAN, EUGENE) (Entered: 04/18/2016)
04/19/2016		Set Deadlines as to <u>14</u> MOTION to Seal <i>Materials</i> . Motion set for 5/16/2016 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (eaj) (Entered: 04/19/2016)
04/25/2016	<u>15</u>	RESPONSE in Support filed by FEDERAL INSURANCE COMPANY re <u>8</u> First MOTION to Dismiss <i>and/or Transfer</i> (Attachments: # <u>1</u> Certificate of Service)(TAMMARO, KATHERINE) (Entered: 04/25/2016)
04/25/2016	<u>16</u>	STRICKEN REPLY BRIEF to Opposition to Motion filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC. re <u>5</u> MOTION for Partial Summary Judgment (Attachments: # <u>1</u> Declaration of D. Gauntlett, # <u>2</u> Exhibit 1)(KILLIAN, EUGENE) Modified on 4/27/2016 (eaj,). (Entered: 04/25/2016)
04/26/2016	<u>17</u>	Letter re <u>16</u> Reply Brief to Opposition to Motion. (KILLIAN, EUGENE) (Entered: 04/26/2016)
04/26/2016	<u>18</u>	Letter from Katherine E. Tammaro in response Plaintiff's request to file an over length brief re <u>17</u> Letter. (TAMMARO, KATHERINE) (Entered: 04/26/2016)
04/27/2016	<u>19</u>	LETTER ORDER that the <u>16</u> Reply Brief to Opposition to Motion is Stricken; Ordering Plaintiffs to file a new reply brief by 5/5/2016 that conforms with the instructions in this Order. Signed by Judge Freda L. Wolfson on 4/27/2016. (eaj) (Entered: 04/27/2016)
05/04/2016	<u>20</u>	REPLY BRIEF to Opposition to Motion filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC. re <u>5</u> MOTION for Partial Summary Judgment (KILLIAN, EUGENE) (Entered: 05/04/2016)
05/26/2016	<u>21</u>	BRIEF in Support filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC. re <u>5</u> MOTION for Partial Summary Judgment <i>on the Duty to</i>

		<i>Defend</i> (KILLIAN, EUGENE) (Entered: 05/26/2016)
06/03/2016	<u>22</u>	BRIEF in Opposition filed by ANTONY KOBLISH, MAARTEN PERSENAIRE, TELA BIO, INC. re <u>8</u> First MOTION to Dismiss <i>and/or Transfer</i> (Attachments: # <u>1</u> Certificate of Service)(KILLIAN, EUGENE) (Entered: 06/03/2016)
08/11/2016	<u>23</u>	Letter from Tela Bio, Inc. re <u>21</u> Brief in Support of Motion, <u>8</u> First MOTION to Dismiss <i>and/or Transfer</i> , <u>5</u> MOTION for Partial Summary Judgment . (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(MILUN, RYAN) (Entered: 08/11/2016)
08/12/2016	<u>24</u>	Letter from Katherine Tammaro, Esq. re <u>23</u> Letter. (Attachments: # <u>1</u> Exhibit A)(TAMMARO, KATHERINE) (Entered: 08/12/2016)
09/09/2016	<u>25</u>	ORDER granting <u>14</u> Motion to Seal. Signed by Magistrate Judge Douglas E. Arpert on 9/9/2016. (mmh) (Entered: 09/09/2016)
09/12/2016	<u>26</u>	NOTICE by FEDERAL INSURANCE COMPANY of <i>Withdrawal of Kevin Sullivan, Esq. as Counsel for Defendant Federal Insurance Company</i> (Attachments: # <u>1</u> Certificate of Service)(TAMMARO, KATHERINE) (Entered: 09/12/2016)
10/25/2016	<u>27</u>	OPINION filed. Signed by Judge Freda L. Wolfson on 10/25/2016. (mmh) (Entered: 10/25/2016)
10/25/2016	<u>28</u>	ORDER that Defendant's Motion to Transfer Venue is GRANTED; that this case shall be transferred to the United States District Court for the Eastern District of Pennsylvania; that Defendant's Motion to Dismiss and Plaintiffs' Motion for Partial Summary Judgment are DENIED without prejudice. Signed by Judge Freda L. Wolfson on 10/25/2016. (mmh) (Entered: 10/25/2016)
10/25/2016		Case extracted via ECF to the Eastern District of Pennsylvania. (jjc) (Entered: 10/25/2016)

PACER Service Center			
Transaction Receipt			
10/26/2016 09:43:42			
PACER Login:	ue0496:4286791:0	Client Code:	
Description:	Docket Report	Search Criteria:	3:16-cv-00866-FLW-DEA Start date: 1/1/1970 End date: 10/26/2016
Billable Pages:	4	Cost:	0.40

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

TELA BIO, INC., a Delaware Corporation, ANTHONY KOBLISH, an Individual, and MAARTEN PERSENAIRE, an Individual,

Plaintiffs,

V.

FEDERAL INSURANCE COMPANY,
an Indiana Corporation,

Defendant.

Civ. Action No.: 16-866 (FLW)(DEA)

ORDER

THIS MATTER having been opened to the Court by Eugene Killian, Jr., Esq., counsel for plaintiffs Tela Bio, Incorporated, Anthony Koblish and Maarten Persenaire (collectively, “Plaintiffs”), on a Motion for Partial Summary Judgment; it appearing that defendant Federal Insurance Company (“Defendant”), through its counsel, Katherine Tammaro, Esq., separately filed a Motion to Transfer Venue, or in the alternative, a Motion to Dismiss; it appearing that both parties oppose one another’s motion; the Court having reviewed the parties’ submissions in connection with the pending Motions, pursuant to Fed. R. Civ. P. 78; for the reasons set forth in the Opinion filed on even date, and for good cause shown,

IT IS on this 25th day of October, 2016,

ORDERED that Defendant's Motion to Transfer Venue is **GRANTED**; and it is further

ORDERED that this case shall be transferred to the United States District Court for the Eastern District of Pennsylvania; and it is further

ORDERED that Defendant's Motion to Dismiss and Plaintiffs' Motion for Partial Summary Judgment are **DENIED** without prejudice.

/s/ Freda L. Wolfson
The Honorable Freda L. Wolfson
United States District Judge